

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Curtis R. Hill, #296024,)	C.A. No. 6:05-693-HMH-WMC
)	
Plaintiff,)	OPINION AND ORDER
)	
vs.)	
)	
Lee County Correctional Institution;)	
A. J. Padula, Warden;)	
Ms. D. Mitchell, Grievance Coordinator;)	
James E. Sligh, Jr., Division Director)	
Classification and Inmate Records,)	
)	
Defendants.)	

This matter is before the court on Curtis R. Hill's ("Hill") motion to dismiss his case and his pending appeal. On March 25, 2005, the court adopted the Report and Recommendations recommending dismissal of Hill's complaint filed pursuant to 42 U.S.C. § 1983.

On April 5, 2005, Hill appealed the court's order dismissing his action. The instant motion was filed on May 16, 2005. Because his direct appeal is still pending, the court lacks jurisdiction to consider Hill's motion. Griggs v. Provident Consumer Disc. Co., 459 U.S. 56, 58 (1982) (finding that filing a notice of appeal "confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.") Therefore, after a thorough review of the facts and pertinent law, the court dismisses Hill's motion to dismiss.

Therefore, it is

ORDERED that Hill's motion to dismiss is dismissed without prejudice.

IT IS SO ORDERED.

s/ Henry M. Herlong, Jr.
United States District Judge

Greenville, South Carolina
May 25, 2005

NOTICE OF RIGHT TO APPEAL

The movant is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.